



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FILED

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Order Instituting Rulemaking on the
Commission's Own Motion to Assess and
Revise the Regulation of Telecommunications
Utilities

Rulemaking 05-04-005
(Filed April 7, 2005)

Rulemaking for the Purposes of Revising
General Order 96-A Regarding Informal Filings
at the Commission

Rulemaking 98-07-038
(Filed July 23, 1998)

REQUEST OF AT&T CALIFORNIA (U 1001 C) FOR OFFICAL NOTICE

Pacific Bell Telephone Company, doing business as AT&T California, in accordance with Rule 13.9 of the Commission's Rules of Practice and Procedure, hereby requests that the Commission take official notice of: a) Decision No. 06-08-030, dated August 24, 2006; b) the Petition for Writ of Review and supporting Memorandum of Points and Authorities filed January 18, 2007 by The Utility Reform Network (TURN), in the Court of Appeal of the State of California, First Appellate District (Division Two); and c) the Court of Appeal decision acting on the writ of review, as more specifically identified below.

AT&T California requests that the Commission take official notice of Decision No. 06-08-030, including, but not limited to: pages 52-78 (Level of Competition in the Voice Communications Market), pages 78-133 (Analysis of Market Power), pages 236-249 (Comments and Replies Addressing the Definition of the Market, Market Power, and the Evidentiary Record), Findings of Fact Nos. 15-63, 66, 74-80, 86-89, 96-97, and Conclusions of Law Nos. 11, 13-18, 20, 22-27, 47, 49. AT&T California further requests that the Commission take official notice of the argument that TURN made in its petition for review that the Commission's

competitive analysis in Decision No. 06-08-030 was erroneous and not supported by the record (TURN Pet., pp. 50-58) and of the Court of Appeal decision denying TURN's petition. AT&T California requests that official notice be taken of these matters and that they be included in the evidentiary record in the phase of this proceeding addressing the protests to AT&T California Advice Letters 28800 and 28982. *See* Assigned Commissioner's and Administrative Law Judge's Ruling, dated September 11, 2007 ("Ruling"). True and correct copies of the documents that are the subject of AT&T California's request are attached as Exhibits A, B and C hereto.

The documents that are the subject of AT&T California's request are relevant to Issue 1 set forth in the Ruling, whether "any events subsequent to the issuance of Decision (D.) 01-09-058 support the modifications" AT&T California made in the advice letters, including the "findings of the URF Phase I decision." *E.g.*, Ruling, pp. 2, 6-7.

These matters are properly the subject of official notice under the Commission's rules and of judicial notice under California law. The Commission's Rule 13.9 provides that "[o]fficial notice may be taken of such matters as may be judicially noticed by the courts of the State of California". Under section 451(a) of the Evidence Code, the "decisional, constitutional and public statutory law of this state," which includes Decision No. 06-08-030 and the Court of Appeal denial of the writ, are subject to the requirement of mandatory judicial notice. The decisions and files of the Commission have long been recognized as subject to judicial notice. *E.g.*, *Pratt v. Coast Trucking, Inc.*, 228 Cal.App.2d 139, 143 (1964) (trial court had "duty to take judicial notice of the files and order of the Commission"). Under section 452(d) of the Evidence Code, the records of "any court of this state," here the Court of Appeal where TURN's petition for review was filed, are subject to permissive judicial notice.

For the reasons stated above, AT&T California respectfully requests the Commission grant its request for official notice.

Dated: October 17, 2007

Respectfully submitted,

By: _____/s/

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